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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,756	11/20/2003	David J. Schneider	P 777	8798
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EXAMINER				
EINSMANN, MARGARET V				
ART UNIT		PAPER NUMBER		
1751				
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/717,756	<b>Applicant(s)</b> SCHNEIDER ET AL.	
	<b>Examiner</b> Margaret Einsmann	<b>Art Unit</b> 1751	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-10 contains the trademark/trade name ChloramineT. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a claimed product and, accordingly, the identification/description is indefinite.

Claim 11 contains the trademark/trade name Avenal S-74. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A

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trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a claimed wetting agent and, accordingly, the identification/description is indefinite.

The term "an effective period of time" in claim 1, "an effective amount of wetting agent" in claims 3 and 4, "an effective amount of sodium or potassium salt" in claims 5 and 6 are relative terms which renders the claims indefinite. In each case there is no statement as to what purpose the amount is effective for, nor is there any metes and bounds defined in the specification as to what defines an effective amount in each case.

Claim 11 is improperly dependent on claim 10 because claim 10 required the presence of a nonionic wetting agent while claim 11 defines said wetting agent as a particular one which is described on page 10 of the specification as being anionic.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Where is the basis for the composition used in claim 10, including the amounts of the ingredients? There is no basis especially for any amount of sodium phosphate or nonionic wetting

agent. The examiner suggests replacing the composition with the one used in the examples of treating cotton T-shirts which is in the specification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copeland, US 4,594,175 and/or US 4,711,738.

Copeland, '175 teaches compositions comprising an active halogen compound, a low foaming sulfonate rinsing agent (applicant's wetting agent) and other ingredients in an aqueous medium. Claim 1 claims 0.5- 10 weight percent of the active halogen compound. Compare to applicant's claimed range of 0.05 to 5 weight percent, preferably 0.5 to 3 weight percent of Chloramine-T. Claim 1 also claims 0.5 to 10% of the sulfonate rinse agent. Compare to applicant's claimed range of 0.05 to 1.0 weight percent of wetting agent, and 0.1 to 15 weight percent of a threshold agent which may be a sodium phosphate salt. Patentee states that the purpose of the active halogen compound is to destain (that is, to remove stains, as claimed) and sanitize tableware. (Col 2 first full paragraph, especially lines 31-35) Patentee lists the active halogen compounds useful in his invention at column 5 first full paragraph, and includes chloramine-T

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on line 16. Copeland's claim 8 claims a method of cleaning soiled tableware which includes using the composition as claimed in claim 1 to produce washed, bleached and rinsed ware. Bleached ware is stain free ware. The process of claim 8 is a process of stain removal which comprises the step of contacting a stained area of a substrate with a solution of an active halogen compound and allowing the solution to stand on the stained area for a time effective to destain the substrate.

Copeland, '738 teaches compositions comprising an active halogen compound, a low foaming sulfonate rinsing agent (applicant's wetting agent) and other ingredients in an aqueous medium. Claim 1 claims 2.5-15 weight percent of the active halogen compound. Compare to applicant's claimed range of 0.05 to 5 weight percent, preferably 0.5 to 3 weight percent of chloramine-T. Claim 10 in column 11 of Copeland claims 0.1-20% of the sulfonate rinse agent. Compare to applicant's claimed range of 0.05 to 1.0 weight percent of wetting agent.

Patentee states that the purpose of the active halogen compound is to destain (that is, to remove stains, as claimed) and sanitize tableware. (Col 2 first full paragraph, especially lines 21-25) Patentee lists the active halogen compounds useful in his invention at column 4 last paragraph, and includes chloramine-T on line 62. Copeland's claim 15 claims a method of cleaning soiled tableware which includes using the composition as claimed in claim 1 to produce washed, bleached and rinsed ware. Bleached ware is stain free ware. The process of claim 15 is a process of stain removal which comprises the step of contacting a stained area of a substrate with a solution of an active halogen compound and

allowing the solution to stand on the stained area for a time effective to destain the substrate.

Neither Copeland patent used chloramine-T in its working examples. They use sodium hypochlorite. It would have been obvious to the skilled artisan to replace the sodium hypochlorite in the examples with chloramines-T since both patents teach that chloramines-T would work equally well as the hypochlorite used in the examples as the bleaching and destaining agent in the process of treating tableware.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmed, US 5,229,027. Ahmed teaches a detergent composition which may be used for bleaching (that is stain removal) which comprises a chlorine bleach compound in an amount to provide 0.5 to 5% available chlorine; 0 to 5% stable, water dispersible organic detergent and 0-40% of a builder salt. See col 4 lines 35-52 for the composition and column 15 lines 55-58 for the teaching that the compositions can be used to bleach laundry. In the examples in column 16, hypochlorite is the chlorine compound, sodium and potassium tripolyphosphate are the phosphate salts, and the surfactant is undefined. Also the components are provided in larger amounts than claimed.

It would have been obvious to the skilled artisan that the compositions as disclosed will be diluted with water upon use and thus contain the amount of each ingredient within the ranges claimed in claim 10 when used to treat clothing, since most bleaching compositions are provided as concentrates for home use and thus are not used neat; for example, Clorox. It would have been obvious to

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the skilled artisan to use chloramines-T in place of the hypochlorite used in the working examples because Ahmed states at page 6 line 57 that chloramine-T is suitable as the chlorine compound in the bleaching compositions. Regarding the surfactant component, Ahmed teaches both nonionic and anionic detergents for use in the compositions in columns 13 and 14.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Margaret Einsmann  
Primary Examiner

